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**UNITED STATES DISTRICT COURT  
DISTRICT OF ALASKA**

**CP ANCHORAGE HOTEL 2, LLC d/b/a  
ANCHORAGE HILTON,**

Plaintiff,

v.

**UNITE HERE! LOCAL 878, et al.,**

Defendant.

Case No. 3:18-cv-00071-SLG

PLAINTIFF'S SUR-REPLY TO  
DEFENDANT'S MOTION TO  
DISMISS

[Dkt. 16 and 24]

In its Reply Brief, Defendant argues for the first time that the Plaintiff CP Anchorage Hotel 2, LLC d/b/a Anchorage Hilton (“Anchorage Hilton” or “Plaintiff”) cannot prove damages because the VCS Conference was held at another hotel also owned by Plaintiff’s parent company, Columbia Sussex. *See* Dkt. 24 at 16-17. This argument fails for three reasons: (1) at the motion to dismiss stage a plaintiff need only plead, not prove, plausible relief, which Anchorage Hilton has done; (2) the fact that Anchorage Hilton and the Anchorage Marriott are both owned by the same parent company does not preclude Anchorage Hilton’s request for damages; and (3) Defendant’s argument ignores all the other forms of damage Plaintiff (including its parent company) has suffered, including the loss of revenue at Anchorage Hilton (which is a separate property and operating entity than Anchorage Marriott), the reduced number of room reservations for the VCS Conference once the conference was indeed held, reduced revenue from guest charges, damage to reputation, other lost

business, additional staff time and costs associated with responding to Defendant's unlawful conduct, outside expenses, including, but not limited to, legal and consultant fees, etc., etc.

Moreover, as illustrated by the Declaration of Ben Krisher (and exhibits attached thereto) (collectively, "Krisher Declaration"), the harm being caused by the wrongful conduct of UNITE HERE! Local 878 ("UNITE HERE!") is ongoing. UNITE HERE! has not ceased its illegal conduct directed to third-parties. Indeed, as the Krisher Declaration illustrates, UNITE HERE! continues to contact board members of trade organizations seeking to hold their conferences at Anchorage Hilton in unlawful ways (in this instance, the Alaska State Council of the Society of Human Resource Managers ("ASHRM")). UNITE HERE! also continues to contact individuals who are even another level removed - the management and supervisors of those board members at their places of business. UNITE HERE! is contacting these managers/supervisors even though they (and their businesses) are completely uninvolved in the conference planning. Yet, UNITE HERE! is contacting them in an effort to try and unlawfully persuade those individuals to put pressure on the board members of ASHRM to cancel or move the ASHRM conference from the Anchorage Hilton. As the Krisher Declaration explains, UNITE HERE!'s conduct is even going a step further and contacting other state councils of the Society of Human Resource Managers to try and get them to put pressure on ASHRM to cancel or move their conference. Such extreme and invasive conduct by UNITE HERE! is impermissible and causing ongoing harm to Anchorage Hilton – damage that may not yet be fully quantifiable.

Furthermore, taking these additional facts into account, there simply is no basis for Defendant's assertion that Plaintiff has not sufficiently pled a viable cause of action or that Plaintiff has failed to adequately plead a viable claim for damages.

For all of the reasons set forth herein and the Plaintiff's Response [Dkt. 22], Defendant's Motion to Dismiss [Dkt. 16] should be denied.

Respectfully submitted,

Dated this 21st day of August, 2018.

LITTLER MENDELSON  
Attorneys for Plaintiff, CP Anchorage Hotel  
2, LLC d/b/a Anchorage Hilton

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By: /s/ Renea I. Saade  
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CERTIFICATE OF SERVICE:

I hereby certify that on the 21st day of August, 2018, a true and correct copy of the foregoing document was served on:

Eric B. Myers  
Sarah E. Josephson

By  Hand  Mail  Fax  
 Court's ECF filing system

/s/ Nancy Murphy Kruse

Nancy Murphy Kruse  
Legal Assistant

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